

KEEGAN WERLIN LLP

ATTORNEYS AT LAW
265 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110-3113

(617) 951-1400

TELECOPIERS:
(617) 951-1354
(617) 951-0586

April 24, 2006

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Fl.
Boston, MA 02110

Re: Boston Gas Company, Colonial Gas Company, and Essex Gas Company, each d/b/a
KeySpan Energy Delivery New England, D.T.E. 05-68

Dear Ms. Cottrell:

On April 13, 2006, the Attorney General of the Commonwealth of Massachusetts filed an initial brief in the above-referenced docket regarding the petition by Boston Gas Company, Colonial Gas Company and the Essex Gas Company each d/b/a KeySpan Energy Delivery New England ("Company" or "KeySpan") for approval, pursuant to G.L. c. 164, § 69I, et seq., of its Long Range Resource and Requirements Plan (the "Supply Plan"). The Company submits this reply to the Attorney General's initial brief in accordance with the procedural schedule set by the hearing officer.

⇒ **Responses to Attorney General**

1. The Company's Planning Analysis is Described Fully in the Supply Plan.

The Attorney General takes general issue with the Company's "decision making procedures and planning analysis," claiming that it is not possible to "adequately determine whether the Supply Plan will provide the necessary resources for the customers at least cost." (Attorney General Brief at 3). The Attorney General does not indicate which particular aspect of the Supply Plan is allegedly lacking in detail in terms of "decision making procedures" or "planning analysis." However, based on the Attorney General's line of questioning during the evidentiary hearing (see Tr. 1, at 13-21), the Attorney General appears to be referring to the Company's decisions regarding the procurement of gas resource contracts. If so, the Attorney General's claim is misguided. Since the Department's ruling in Gas Unbundling, D.T.E. 98-32-B (1999), the Company is required to petition the Department under G.L. c. 164 § 94A ("Section 94A") for approval of all capacity and/or gas supply arrangements with a contract term in excess of one year. See Gas Unbundling, D.T.E. 98-32-B at 41. It is within that context that the

Department and the Attorney General evaluate the Company's decision-making procedures regarding the procurement of gas resources.

Specifically, in a proceeding under Section 94A, the Company is required to make a demonstration that procurement of a capacity or commodity resource: (1) is consistent with the company's portfolio objectives, and (2) compares favorably to the range of alternative options reasonably available to the company and its customers. Boston Gas Company, D.T.E. 04-9, at 9 (2004); Commonwealth Gas Company, D.P.U. 94-174-A, at 27 (1996). The Department will determine that a resource is consistent with the company's "portfolio objectives" where there is a demonstrated need for the resource. KeySpan Energy Delivery, D.T.E. 02-18, at 10-11. To determine whether the resource is needed, the Department will rely on a recently approved supply plan or a recent review of supply contracts under Section 94A. Id. at 9. Thus, the Department's review of the Company's "planning analysis" occurs periodically through a supply plan proceeding and is referenced over the forecast period at the time that a resource is proposed for procurement. In that regard, the Attorney General has not provided any indication as to alleged deficiencies in the Company's planning analysis in this filing.

The Department's review of the Company's "decision making process" in procuring the proposed resource comes in the context of evaluating the Company's process to: (1) identify a gas resource appropriate to meet the specified need, and (2) compare the price and non-price attributes of that resource to other reasonably available resource alternatives. Boston Gas Company, D.T.E. 04-9, at 10; Commonwealth Gas Company, D.P.U. 94-174-A, at 28. As part of the review of price and non-price attributes, the Department considers whether the pricing terms are competitive with those of the broad range of capacity, storage and commodity options that were available to the LDC at the time of the acquisition, as well as those opportunities that were available to other LDCs. The Attorney General participates in these proceedings and is afforded a full opportunity to evaluate the decision making process employed by the Company in the course of procuring a particular asset.

The Attorney General has provided no indication of the deficiencies that allegedly exist in the Company's filing that should be addressed and there is ample opportunity under existing Department precedent to perform the analysis requested by the Attorney General. Accordingly, the Attorney General's critique of the Company's "decision-making procedures and planning analysis" is off the mark. Therefore, the Department should evaluate the Company's filing consistent with the established standard and find that the Company's filing meets this standard.

2. The Supply Plan Adequately Addresses Reliability Issues Relating to Gas Supply and the Company's Distribution System.

The fundamental inquiry in this proceeding is whether: (1) the Company's forecast of customer requirements is reasonable and appropriate, and (2) the portfolio of resources under contract by the Company is adequate to meet those customer requirements with the requisite level of reliability, diversity and flexibility. See Bay State Gas Company, D.T.E. 02-75, at 2 (2004); The Berkshire Gas Company, D.T.E. 02-17, at 2 (2003); Commonwealth Gas Company, D.P.U. 92-150, at 53 (1995); Colonial Gas Company, D.P.U. 93-13, at 49-50 (1995). Where deficiencies are identified, the Company is required to demonstrate that it has an action

plan which meets projected sendout in the event that the identified resources will not be available when expected. Colonial Gas Company, D.P.U. 96-18, at 31; Commonwealth Gas Company, D.P.U. 92-159, at 54.

According to the Attorney General, the Company's Supply Plan identifies deficiencies that have not been adequately addressed by the Company. Specifically, the Attorney General alleges that the Supply Plan does not adequately provide for a contingency plan under design conditions in the event that: (1) the expansion of the Tennessee Gas Pipeline ("TGP") (*i.e.*, the "ConneXion Project") is delayed; or (2) the Company fails to enter into a long-term contract with Algonquin Gas Transmission Company ("Algonquin") (Attorney General Brief at 4-6). Both of these claims are without merit.

First, the record shows that the Company provided detailed information regarding supplemental resources that it has procured, or intends to procure, during the term of the Supply Plan, including procuring capacity on the ConneXion Project (Exh. KED-1, at 69-71, Tr. 1, at 23); *see also* KeySpan Energy Delivery, D.T.E. 05-35 (2006). With regard to the ConneXion Project, the record shows that TGP is a well-established and reputable company with a long record of reliable service. There is no indication whatsoever that the project will not be on line by the in-service date and the record shows that the Company is prepared to deal with a delay contingency through the use of domestic or Canadian LNG as a backup supply (*id.*; Exh. KED-1, at 83). Specifically, the Company provided information on its plan to meet customer requirements in the event that ConneXion is delayed by one year, *i.e.*, from 2007/08 to 2008/09 (Exh. KED-1, at 83; Exh. KED-AG-1-12). In this contingency, the Base Case demand forecast was assumed and both the normal and design-year requirements were modeled (Exh. KED-1, at 83). The contingency analysis showed that a one-year delay in the start of ConneXion will require the Company to contract for additional firm city-gate deliverability of 40,000 MMBtu/day for the 2007/08 winter and to plan for additional purchases of supply on the natural gas market (*id.*; Tr. 1, at 23).¹ By providing this action plan (and contingency plan) to address the identified resource deficiency, the Company has met the Department's standard.

The Attorney General also suggests that the Company has failed to identify a contingency plan in the event that it does not enter into an agreement with Algonquin for capacity to serve the Company's Cape Cod service area. However, on March 30, 2006, the Company finalized a Precedent Agreement with Algonquin and is currently working to file the agreement with the Department.

With regard to the Attorney General's reference to the Company's need for distribution system upgrades to serve its Cape Cod service area, the Company filed a detailed application with the Energy Facilities Siting Board ("EFSB") for approval of a new pipeline segment in that service area. *See* KeySpan Energy Delivery, EFSB 05-02. The Company is currently awaiting the EFSB's decision on the Company's application. The Company addressed both of these plans in the context of this proceeding (Exh. KED-1, at 85-86; Exh. KED-AG-1-14). Accordingly, the Attorney General's contentions regarding these issues are without merit.

¹ In approving the Company's agreement with TGP, the Department acknowledged that the Company has explored alternatives to the ConneXion Project and rejected them for valid reasons. KeySpan Energy Delivery, D.T.E. 05-35, at 6 (2006).

Moreover, as noted in the Company's initial filing and initial brief, as necessary during the term of the Supply Plan, the Company will renew contracts, as needed (Exh. KED-1, at 75, 84). It is routine for gas companies to extend existing contracts at the end of their term, to the extent that the resource continues to be needed. This is particularly true in light of the finite amount of gas resources available at any given time to serve identified demand. In addition to acknowledging the possibility of contract renewals, the Supply Plan also acknowledges additional means of addressing potential deficiencies and provides a detailed contingency plan to address them (*id.* at 83-85; Exh. KED-AG-1-12). Accordingly, the Department should reject the Attorney General's allegations regarding deficiencies identified in the Supply Plan and approve the proposed Supply Plan as filed.

3. The Attorney General's Allegations Regarding the Company's Procurement of Services From Affiliates Are Unfounded.

Lastly, the Attorney General implies that the Company improperly procured gas supply, transportation and storage services from its affiliates (Attorney General Brief at 6). The Attorney General specifically cites transactions with KeySpan LNG, LLC ("KLNG") and TransGas, Inc. ("TransGas") and notes that: (1) the Department did not explicitly approve these contracts; and (2) the Company provided no evidence that these agreements were procured through an open and competitive process (*id.* at 6-7).

With regard to the KLNG agreement for LNG storage services, the Attorney General acknowledges that the agreement represents a continuation of the Company's agreement with Algonquin LNG, the predecessor to KLNG (Attorney General Brief at 6). This is a longstanding agreement, which is regulated by the Federal Energy Regulatory Commission ("FERC"), and thus, the Company is subject to FERC tariffed rates for the services offered by KLNG. As a result, the Company's contract with KLNG is proper and necessary to meet customer requirements.

With regard to the LNG trucking services provided by TransGas, the agreement does not require Department approval pursuant to G.L. c. 164 §§ 94A or 94B because: (1) the term of the agreement is less than one year; and (2) there is no Department precedent to indicate that LNG trucking constitutes the purchase of gas supply or capacity for purposes of § 94A.² With respect to the process for procurement of LNG trucking services, the record indicates that TransGas is the sole company doing business in the New England region with sufficient resources to serve KeySpan's substantial requirements for trucking LNG (Tr. 1, at 55). Accordingly, the Company's contract with Transgas is proper and necessary to meet customer requirements.

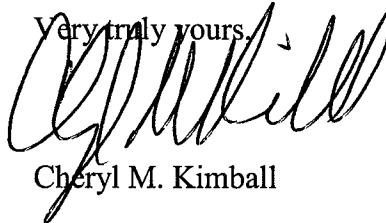
² Moreover, from an affiliate transaction filing perspective, the service provided by Transgas is contracted for by KeySpan Corporate Services LLC for the benefit of all the KeySpan New England LDC's pursuant to the Corporate Services agreement that is filed with the Department each January pursuant to G. L. c. 164, § 85A. The latest Corporate Services agreement was filed on January 10, 2006.

⇒ **Conclusion**

The Company's Supply Plan includes a forecast that is reviewable, appropriate and reliable and a Supply Plan that identifies adequate resources to meet the Company's firm sendout requirements. Accordingly, the Department should approve the Company's Supply Plan.

The Company greatly appreciates the Department's consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Cheryl M. Kimball', written over the typed name.

Cheryl M. Kimball

cc: Service List
Andrea Saia, Hearing Officer
Colleen McConnell, Assistant Attorney General
Thomas P. O'Neill